

Quid Novi

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McGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT UNIVERSITE MCGILL

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FACULTY COUNCIL CUTS SEMI-OBLIGS!

by Debbie Raicek

Some major decisions were made at Faculty Council this week. The motion to reduce semi-obligatory credit requirements was put to a vote.

Last year at Faculty Council a proposal to reduce civil law semi-obligs from 17 to 13 and common law semi-obligs from 15 to 6 was tabled until September so that further study of the proposal could be made.

At last Thursday's Faculty Council the motion

was split into a civil law component and a common law component. The common law component was passed, thus reducing the semi-oblig load from 15 to 6. The applicability of this change is subject to approval by a McGill University Senate Committee. If approved, the change will be effective retroactively, but only for students who are graduating this year. In the meantime, the Faculty Council Curriculum Committee will be considering other possible changes to the common law curriculum and will be presenting these at a

November meeting of the Faculty Council.

The civil law component of the motion was tabled until November when the Curriculum Committee reports back from its study of a proposal submitted to Faculty Council. The proposal under study suggests a complete restructure of the first year civil law curriculum.

Any questions or comments on this matter can be put to the Dean on Thursday, October 11 at 1 p.m. in the Moot Court.

THE WELDON TRADITION AT DALHOUSIE

by Judy Kennedy

Is it radicalism worthy of Critical Legal Scholars to develop social consciousness and a measurable spirit of co-operation in the students and faculty of a law school? The Weldon Tradition of Dalhousie Law School has grown from its century-old basis of "public service", established by its founder and long time Dean, Richard Chapman Weldon. It is now generally regarded as comprising the above-mentioned goals

This summer, Mrs. Lederer and I had occasion to discuss the effect of the tradition on the student with Dal Law's Associate Dean Brian Cotter. Most noteworthy, in my opinion, were the following aspects:

Community Service

This component is focused, though not exclusively, on the Dal Legal Aid program, which has a high profile in the Halifax-Dartmouth area. It is run by a board of students, two faculty members, and rep-

resentatives of the community. Students apply their knowledge and develop advocacy skills from the first day. "I was handed 40 files," said one student, but acknowledged the support and assistance of staff and faculty advisors. "It turned law around for me," added the student. "It was the first time I had felt competent in law school."

Co-operation

Esprit de corps is fa-

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NEW FACES AROUND

Rosalie Jukier

by Terry Pether

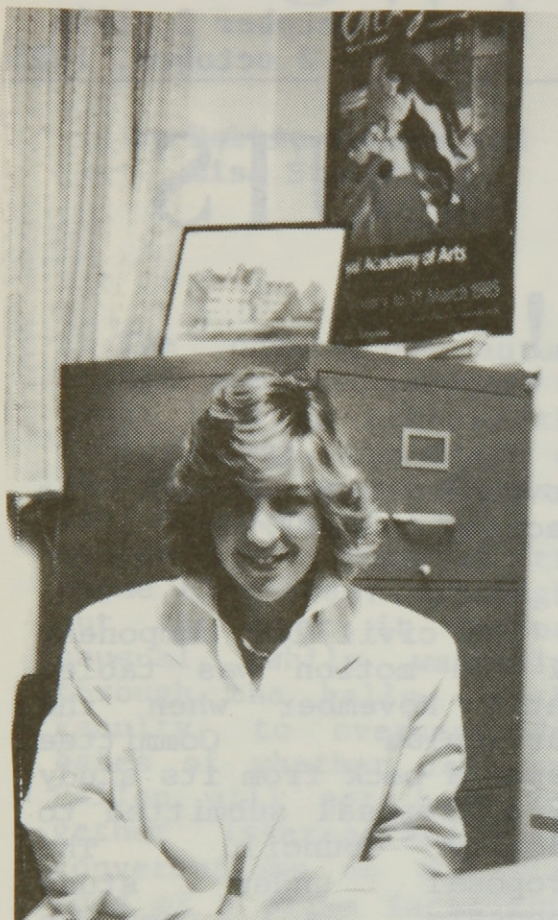
Prof. Rosalie Jukier joined McGill's Faculty of Law this year, and is currently teaching Obligations.

She returned to McGill from Oxford University. As a student here, she graduated with a diploma in the National Programme and was the Elizabeth Torrance Gold Medal winner for 1983. She went on to the Quebec Bar before studying Evidence, Comparative Human Rights, Conflicts of Law, and Trusts at Oxford where she earned a B.C.L. (a masters in Canadian terms).

While a student in law school, Prof. Jukier had contemplated a career in teaching and she now wel-

comes the opportunity to work in her native Montreal. Chancellor Day Hall, Prof. Jukier notices, has changed somewhat since she was last here. She finds that students are more enthusiastic and participatory both in class and within the number of clubs and activities organized by the faculty.

Don't look for any pet theories from Prof. Jukier. It is her intention to put forth a balanced view of whatever area of law she teaches. And Prof. Jukier does not want to be professorially pigeon-holed. Though her primary interest lies with the civil law, she is willing to teach a variety of courses, thus many students can look forward to studying with Prof. Jukier.



Daniel Jutras

par Normand Perreault

Originaire de la Rive-Sud, Prof. Jutras a obtenu un baccalauréat en droit civil de l'Université de Montréal en 1982. Après avoir été reçu au Barreau, il a travaillé à la Cour Suprême du Canada en tant que clerc du juge Lamer. Puis en 1985, il a complété une maîtrise en droit public à l'université Harvard.

Prof. Jutras vient tout

juste de se joindre à l'équipe des professeurs. C'est, a-t-il précisé, l'unicité du programme national ainsi que le dynamisme de la faculté qui l'ont amené à McGill. Selon lui, la faculté pourra bientôt se comparer à celles de renommée internationale.

Il enseigne présentement les Obligations et les étudiants de première le retrouveront en deuxième session au pupitre du droit pénal.



THE FACULTY

Stephen Toope Boulton Fellow

by Debbie Raicek & Lisa Steinberg

Stephen Toope, a native Montrealer, is presently one of the two Boulton Fellows appointed at McGill Law School. After graduating from Harvard with a B.A., Stephen returned to Montreal to take the McGill National Law Programme, from which he graduated in 1983. Over the past two years he has been working on his Ph.D. at Cambridge University. His thesis concerns issues involved in the resolution of disputes between States and foreign private parties, emphasizing arbitral remedies. Stephen

hopes to finish it this year.

Stephen enjoys the feeling of being back at McGill Law School. "The people have been very friendly and welcoming", he commented, "and most of the students are new faces to me." Next year he will be heading off to Ottawa where he will be a clerk for Chief Justice Dickson. He sees his future career aspirations leaning towards teaching.

In the meantime, Stephen is enjoying his native Montreal. "You can't compare the theatre to London," says Stephen, "but the cross-country skiing makes up for it."



Christophe Jamin Boulton Fellow

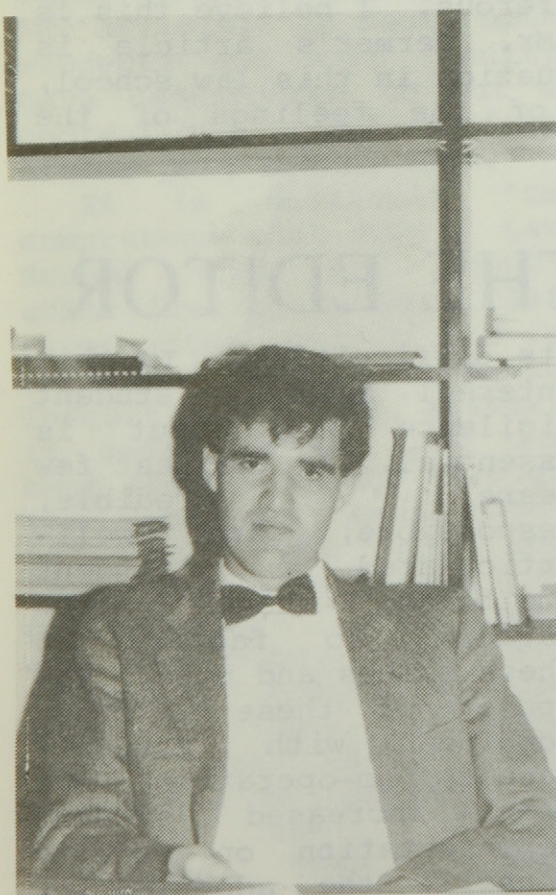
by Debbie Raicek & Lisa Steinberg

Christophe Jamin, a native Parisian, is a Boulton Fellow here at McGill Law School. He received his Maitrise de Droit privé from Université de Paris XI (Sceaux), and his Diplôme d'études de Droit privé (D.E.A.) from Université Paris I (Panthéon-Sorbonne). As well, he has passed the French Bar Exams.

Christophe hopes to finish the research on his thesis "Essai sur les actions directes" during his

year here. He chose Montreal to complete his work because he is interested in studying the Quebec Civil Law. "The French law is more purely civilian than Quebec law" Christophe commented.

Christophe finds Montreal a very agreeable city. "It is very similar but very different from Paris," he reflected. "In France we look to the past; here, you look to the future." Meanwhile, Christophe is spending his spare time availing himself of the Quebec theatre and cinema as well as exploring the city of Montreal.



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EDITORIAL

by Debbie Raicek

In response to Mr. Dermer's article "On the Faculty: A View for First Year Students", I would like to refute his accusation of first year confusion and upper year apathy. It is obvious that efforts such as orientation week, tutorial dinners and the law partners seemed to have gone unnoticed by Mr. Dermer. Much effort and planning went into orientation week, not only this year but in Mr. Dermer's year as well. More than ever, the L.S.A. has been particularly enthusiastic and successful in my view, in creating the kind of atmosphere that is conducive to the informal dissemination of information to first year students.

With respect to Mr. Dermer's anonymous "deep throat" source, I think it is unfair to smack a label of "apathetic" on three-quarters of the student body. Granted there are problems that need solving and issues that need raising; however, workable results hardly ever occur overnight. Perhaps Mr. Dermer should have taken a closer look at the functioning of the L.S.A. and other groups in the law school, such as the Legal Aid Clinic, before so hastily condemning the upper year student body. The amount of work, enthusiasm and concern expended on a daily basis can hardly, in my view, be labelled as apathetic.

In closing I would like to make one observation. Over the past few days many people have voiced objections to the contents of Mr. Dermer's article. Interestingly enough, it was the students and not the faculty members who were vociferous. I believe this is the best indication that Mr. Dermer's article is neither indicative of the situation in this law school, nor at all representative of the feelings of the student body.

LETTERS TO THE EDITOR

To the Editor:

It was with considerable disappointment that I read Richard Dermer's rambling, distorted and generally misinformed article in last week's Quid. Each of us will concede that this school is no administrative paradise, that problems relating to issues such as grading, timetabling, curriculum reform and student input into the decision-making process have occupied the agendas of many LSA Councils. However, every faculty has

its difficulties. In this internal dynamic, student vigilance and input is essential. In the past few years credible, responsible, and well-articulated student positions have been advanced to faculty on these issues and more. The upshot of these efforts, combined with student-faculty co-operation, has been increased student representation on Faculty Council, the adoption of the G.P.A. as a grading

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Letters

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system, the reduction, last week, of common law semi-obligatory credits (with an attendant reduction in civil law semi-obligs in the works), and an expanded curriculum of interesting electives, not to mention a rationalized Early Course Selection procedure. In fact, Mr. Dermer only offers vague generalities about "serious" problems apparent in the faculty, while curiously choosing to highlight some specific successes and advances which have been made.

Mr. Dermer's comment that "solutions will rarely come unsolicited from the Faculty Council" does not reveal the underlying problems which this law school faces. It only manifests his own ignorance of how the decision-making and political processes of this faculty work. They are infinitely more subtle than the "us-them" attitudes which disturbingly pervade the article. In fact, both students and most faculty have endeavoured to put a contentious and often bitter past behind them.

It is difficult "to comprehend what McGill Law School [is] all about" after four years here, let alone after one. If one is serious about changing inequities in the system, it seems to me that one best effects change through the continued involvement in the life of the institution that one so passionately criticizes, and that some thought and objective reflection be given to what the real issues are before one endeavours to "educate" or "inform" one's fellow students. This requires initiative, and there are no shortages of student organizations at this faculty through which to

voice an opinion or in which to get involved.

There are serious issues which confront the faculty, like curriculum reform, for example. Student input should be positive and informed, and I encourage every interested student to approach LSA members, student Faculty Council reps or faculty itself to present any concerns or discuss issues. In this way, "the garbage that students must accept if they are to remain in this school" can be clearly defined and dealt with. If we were all to share Mr. Dermer's sentiments, and his way of dealing with the problems, there wouldn't be any problems. There wouldn't be anyone left in the faculty.

Dan Bilak

National Program IV

To the Editor:

Although first year students come from varied backgrounds, all have one thing in common; they have all started something "new". Whether entering the Faculty with a Master's degree or a CEGEP diploma, each student has one area of his or her life in which he or she is making a fresh start, a beginning. As a third year student involved in Orientation this year, I have had the opportunity to talk with quite a few of the first years, and over the past few weeks I have noticed something novel in the Faculty . . . a positive attitude. I firmly believe that this optimistic yet realistic attitude is the best tool one can have in ploughing through the three or four years we choose to spend here.

There are obvious problems in the Faculty, the primary one being the unwillingness of the administration to yield to

reasonable requests regarding course selection and changes. Yet, an objective study of this situation leads one to the conclusion that we have, in this Faculty, a bureaucratic system which in reality is no worse than any other system. Perhaps there are those first year students who have never had to deal with a system that was inflexible yet which at the same time was determining an important aspect of their life. In reality, everyone in our society must deal with such systems. Here, as in the "outside world", one has a choice of reacting with apathy or with action. In the Faculty of Law there are appropriate measures available to anyone who wishes to take action. Then why has there been so little change in the bureaucracy over the last ten years? It may be the tendency towards apathy among the majority of students and the tendency towards conservatism among our voted representatives.

I seriously disagree with complaining if one is not going to do anything positive about one's grievances. Richard Dermer stated in his first article (Sept. 25) that he could no longer "deal with the garbage that students must accept if they are to remain in the school". My response to this is that in any field of life, one is going to encounter garbage: people who don't hold the same values you hold and unfair blockades both by "fate" and "circumstance". We each have to develop a coping mechanism in order to get us through. If we don't cope, we cannot succeed in any area of life. Mr. Dermer's article is precise enough to highlight the fact that

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Weldon

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cilitated from the first day. Orientation week is devoted entirely to registration, information and the social interaction of students and faculty. New faculty members are chosen in part for their ability to "get along with students." The Open Door policy translates into "students before publications" and faculty members are expected to drop into the Domus Legis, Law's own pub, to meet students. Students are assigned to small groups which work together on assignments, exam prep, etc. all year. The compulsory moot, now eliminated, was prepared with the assistance and guidance of the members of the bench. Following the completion of oral pleadings, bench and counsel went out to dinner together.

Process/Structure

Dal has addressed certain weaknesses experienced by law schools generally, such as insufficient prep-

aration for the legal writing assignments and advocacy, exam trauma, and institutional hierarchy.

Even though the legal writing skills course is acknowledged as inadequate, it extends over two terms. Students are not required to complete a written assignment until term II and only after an "exhausting" library assignment. "Students are not expected to think legally in first year." (B. Cotter)

Compulsory mootting is no longer required: instead the first year Contracts course has a practical oral advocacy component that counts for fifty per cent of the course mark. This innovation has been so successful that consideration is being given to adding a similar component to Criminal Law. An optional course in Appellate Advocacy is of course offered as well as Interviewing, Negotiating and Counseling.

There are no 100% finals in first year. Plenty of

individual support and advice is offered by faculty and staff and as well, the school has its own counselor. (Mrs. L. liked the recognition of this service!)

Perhaps the challenge to the "you do it our way" philosophy of legal education derives from the faculty itself. Certainly the influence of thought-provoking speakers like Harvard professor Duncan Kennedy of "Legal Education as Training for Hierarchy" fame and Dal's own Christine Boyle have left their mark on students and faculty alike. They seem to welcome new ideas: Dean Innis Christie "regrets" the lack of radicalism among the students. (Alumni bulletin "Hearsay" interview, Spring 1985)

As the school faces the greatest test of its spirit of co-operation, its social consciousness and its structural process, following the loss of its "operational" library by fire, the Weldon tradition is -- SOLID GOLD!

ANNOUNCEMENTS

Results of the LSA Election of First and Second Year Class Presidents:

B.C.L. I:	Battaglia	39
	Argun	11
	Voter Turnout	63%
LL.B. I:	Morley	19
	Condon	14
	Voter Turnout	70%

Overall: Voter Turnout 65%

B.C.L. II: Joe Starnino*

LL.B. II: Mike McGuinty*

*Acclaimed

Dean's Hot Seat

Thurs. Oct. 11, 1985
1p.m. -- Moot Court

Discussion on the application of the reduction of common law semi-obligatories.

Phones

Students are reminded to limit their phone calls on the free phones when there are others waiting. This courtesy will be appreciated by your fellow students.

Quid Novi Deadline

For the rest of the year, the Quid's deadline will be Thursday at noon. Absolutely no exceptions will be made for late submissions.

The Staff

Men's Law Intramural Soccer Team

B division needs more players to form a viable team. If you would like to play, please call 768-2100.

SPORTS

The Sports Committee has a mandate to, among other things, inject some organization and coordination into an intramural sports program which has in the past teetered along in a most haphazard manner. Though great effort will be expended on the part of the Committee members towards this goal, it can only be achieved with the cooperation of those students who wish to participate.

One big problem encountered in the past has been a lack of communication -- not only does no one know what's going on, nobody knows how to find out what's going on, especially interested first year students. We the committee will be making every effort to publicize upcoming events and opportunities

for participation, via both the Sports Board in the Pit and regular announcements here in the Quid. A great responsibility, however, lies with the team captains, especially at the time of registration, to make themselves known and available to people who might want to join in their particular sport. After all, the more participation we have, the better our intramural program will be. Ultimately, though, the onus lies with the prospective players themselves. Keep your eyes open for notices and postings, and make enquiries if you would like to join a team or even head one up yourself. There's something for almost everyone here: all you have to do is ask.

The Sports Committee

will be meeting on a weekly basis, Mondays at noon (in a room to be named later) to discuss projects, provide info, and deal in a timely fashion with whatever problems may arise. With any luck, those will be few. All those interested are welcome and encouraged to attend, especially team captains, whose cooperation, as we said, is essential.

Sign-up sheets for the winter indoor sports will be posted shortly -- watch for them! And stay tuned for news and information regarding this year's Law Games, to be held in Kingston!

LSA Sports Committee
Lyse Charette
Del Dainault
Graeme Fraser
Billy Rosenberg

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there are problems in the Faculty, yet vague enough to instigate an ominous feeling of helplessness. The fight against apathy in

the Faculty, in my opinion, is best won through the creation of a clear and positive description of the present and past situation, with guidelines towards a future solution. I don't know what the guidelines

are . . . perhaps future articles in the Quid on this can focus on the solution rather than the problem.

Jacqueline Lacey
National Program III

Quote of the Week

Prof. Grey:

"Students say that I am so biased -- I come in here and preach my own ideas; of course I do!"

Quoteable Quote

Prof. Vlasic in reference to the Limited Test Ban Treaty:

"If it hadn't been for that treaty, who knows how you would look today."

LE DROIT ET LA LANGUE

par Chris Atchison

Le professeur Alain Prujiner de l'Université Laval nous a rendu visite le 19 septembre dernier et a présenté un exposé sur les formes d'interaction entre le droit et la langue au sein des sociétés bilingues ou multilingues. Selon M. Prujiner, on peut aborder ce sujet en adoptant deux approches corrélatives.

La première est relativement simple. Il s'agit de la notion à l'effet de laquelle la langue a joué un rôle moteur dans l'avènement des états-nations. Il existe d'innombrables exemples de ce phénomène: un des meilleurs, selon notre invité, est l'Europe au lendemain du Traité de Versailles. Le professeur Prujiner ajoute que d'autres états se sont constitués en fédérations en suivant leurs "frontières linguistiques": il s'agit, par exemple, de l'U.R.S.S., de l'Inde et évidemment du Canada où les facteurs linguistiques avaient certainement leur importance en 1791 et en 1867.

La deuxième approche envisagée par le professeur Prujiner constitue l'envers de la médaille: à savoir que l'état a tendance à

façonner, dans une large mesure, les usages linguistiques. Il précise que de nombreux facteurs amènent les autorités publiques à énoncer une politique linguistique donnée. Elles vont souvent réagir lorsque la langue nationale semble menacée, soit de l'intérieur (pensons au sud des Etats-Unis où l'influence latino-américaine devient considérable), soit de l'extérieur (c'est le cas, par exemple, de la France où l'influence anglophone commence à soulever des inquiétudes).

M. Prujiner dénote également que l'état va être appelé à expliciter une politique linguistique au moment où on va revendiquer l'imposition d'une langue dite "nationale". Une constatation fort intéressante de notre invité: de telles politiques ont largement échouées dans les pays où la majorité s'est efforcée à imposer "sa" langue sur des minorités importantes -- c'est le cas, par exemple, de l'hindi aux Indes ou du tagalog aux Philippines. Par ailleurs, elles ont connu un succès remarquable là où la langue qu'on a voulu imposer était "à peu près la deuxième langue de tout le monde" comme par exemple l'hébreu en Israël ou le malais en Indonésie. Notre invité ajoute que l'état

sera aussi porté à intervenir dans le domaine linguistique dans le but de maintenir une certaine diversité comme c'est le cas en Suisse, et, bien sûr, au Canada.

Le professeur Prujiner avoue que ces deux approches ne semblent pas, au moins d'un premier coup d'oeil, nous référer à un point de rencontre concret entre l'état et la société dans le domaine linguistique. En effet, le droit -- en s'adressant généralement aux personnes -- éprouve énormément de difficulté à cerner et à réglementer une abstraction telle que la langue. Notre invité estime néanmoins que ce problème peut être surmonté en se servant de la notion de "communauté linguistique" qui constitue, si on veut, le point de jonction des deux approches formulées ci-haut. Certes, une telle entité n'a généralement pas de personnalité juridique formelle mais elle peut toutefois se doter de représentants qui peuvent engendrer des effets juridiques. De plus, M. Prujiner soutient qu'il est possible de créer certains mécanismes qui favoriseraient ce genre de représentation. C'est le cas, par exemple, de l'article 23 de la Charte qui favorise justement l'avènement de porte-paroles de certaines communautés linguistiques en ce qui a trait à la langue d'enseignement.

OBSERVATIONS



by Scott Turner

I do some of my best thinking when I'm lying face down on the couch in the living room. I was doing that today, as a matter of fact, before I got up to write this. My mouth was open and my eyes were staring glassily at the dying plant. A little puddle of drool was forming on the upholstery (you know how it is when you lie on your stomach). I was trying to dream up a suitable problem for my tutorial group: something clever but not unduly taxing -- sort of a legal soufflé of moderate issues.

But I was having difficulty focusing on their problem. The rotting leaves were disturbing me. And my thoughts kept wandering to more subliminal

things. I pictured myself as a corporate Czar, handing out positions of influence to my friends, and sending those who bored me to work in accounting departments.

I was on the deck of ship in the midst of a huge storm, with my feet spread apart, standing firmly, unafraid of the waves: in a state of perfect balance.

I was sitting in my little room at university, face to face with Willie Freeman, a fictitious, free-lance vagabond I've been trying to create for years. A light was burning and he was asking me what it was he was supposed to be looking for and how he was supposed to find it. And I told him that he'd found it: the recognition of his crea-

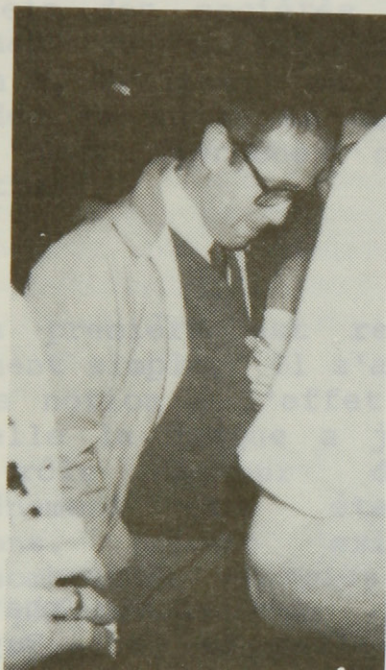
tor. I told him that he was free to go. But he couldn't leave, because he had no further purpose. So I told him to go write a pornographic novel, and he left me to stare out my windows into the nighttime air.

Outside, the neighbour's little children were chasing one another up and down the sidewalk, crying out in shrill voices for someone or something. They annoy me sometimes, these little kids. But someone has to grow up, I suppose.

And even as I write this, the stupid plant continues to die, and I realize that I'm going to have to sue the guy who sold it to me, if nothing else, for all the pain and mental anguish he's caused me.

THE DEAN'S

RECEPTION



"The Thinker"



"The Drinker"



Law School Chic



Private Dancer



Upper Year Apathy?



LSA Conservatism